

Serial No. 10/038,773
Amdt. dated March 8, 2004
Reply to Office action of September 8, 2003

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REMARKS

Applicant has amended the specification to provide a specific reference to the prior non-provisional application, to delete references to the claims and to add appropriate headings at various sections.

Applicant has amended claims 1, 3, 4, 7, 8, 9, 10, 16, 17, 18 and 20 for minor informalities.

The Examiner has rejected claim 1 under 35 U.S.C. 101. Applicant has amended the claim to make clear that the human is part of the claimed invention. As amended, it is believed that the rejection has been overcome.

The Examiner has rejected claim 1 as being unpatentable over Sperinde in view of Japanese Publication No. 08-029699 to Kitagawa. Applicant respectfully disagrees.

Sperinde discloses a catheter for measuring the oxygen saturation of the blood. The oxygen saturation is computed on the basis of the back-scattered radiation of the blood under test. An optical guide is provided within the catheter for guiding the radiation to the blood under test. Kitagawa discloses an image scope for carrying out a gastroscopy or an enteroscopy. An objective lens is fitted on the front side of the image scope and a wiper is provided at the lens capable of wiping out the surface of the lens and cleaning the lens of body fluids.

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Applicant believes that there is no teaching or suggestion for modifying Sperinde with the wiper of Kitagawa. There is no suggestion that the catheter in Sperinde requires a cleaning device. Similarly, Kitagawa does not disclose a catheter which is designed to be inserted in a blood vessel. Kitagawa discloses an image scope for carrying out a gastroscopy or an enteroscopy that has much larger proportions compared to a catheter.

The Examiner has also rejected claim 1 as being unpatentable over Wirtzfeld in view of Sperinde and further in view of Kitagawa. Applicant respectfully disagrees for the same reasons stated above. Even if Wirtzfeld, which discloses a frequency controlled heart pacemaker, can be combined with Sperinde, there is no suggestion or teaching to combine Sperinde with Kitagawa.

In view of the above, it is asserted that claims 1-10 and 12-21 are patentable over the cited references and are asserted to be in condition for allowance. Reconsideration of rejection is respectfully requested and an early and favorable action is earnestly solicited.


Applicant hereby requests an extension of time for three(3) months through March 8, 2004, in order to timely file this amendment. A check in the amount of \$655.00 is attached herewith for the extension fee of \$475.00 and the IDS submission fee of \$180.00.

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Please charge Deposit Account No. 19-2105 for any additional fees required to be paid in connection with this submission.

Respectfully submitted,



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